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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,786	01/03/2002	Carolyn M. Primus	TUL-LOMA	4082

23439 7590 04/28/2003

DENTSPLY INTERNATIONAL INC
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EXAMINER

GREEN, ANTHONY J

ART UNIT	PAPER NUMBER
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1755

DATE MAILED: 04/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/038,786

Applicant(s)

PRIMUS, CAROLYN M.

Examiner

Anthony J. Green

Art Unit

1755

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4&5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

Claim Rejections - 35 USC § 102/103

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Nelson et al (US Patent No. 2,358,730).

The reference teaches, on page 2, second column, lines 44+, various dental investment powders comprising white Portland cement.

The instant claims are met by the reference.

3. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Derwent Abstract No. 1995-034557, abstract of Russian Patent Specification No. 2012327C1.

The reference teaches a composition used for the prevention of dental carries comprising 0-25 wt % SiO_2 , 5-25 wt% CaSO_4 , and the remainder Portland cement.

The instant claim is met by the reference.

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4.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson et al (US Patent No. 2,358,730).

The reference was discussed previously. While the reference does not recite the make-up of the Portland cement it is the examiner's position that it would have been obvious to one of ordinary skill in the art to substitute any Portland cement composition for the Portland cement of the reference in the absence of evidence to the contrary as the basic premise of using a Portland cement material in a dental material is taught by the reference.

5. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Derwent Abstract No. 1995-034557, abstract of Russian Patent Specification No. 2012327C1.

The reference was discussed previously. While the reference does not state that the composition is white in color, it is the position of the examiner that it would have been obvious to make the composition white as it is well known in the dental art to formulate compositions that are white so that they match the color of natural teeth. As for the make-up of the Portland cement it is the examiner's position that it would have been obvious to one of ordinary skill in the art to substitute any Portland cement composition for the Portland cement of the reference in the absence of evidence to the contrary as the basic premise of using a Portland cement material in a dental material is taught by the reference.

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Information Disclosure Statement

6. The remaining references cited by applicants have been considered, however they are not seen to teach or fairly suggest the instant invention.


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Green whose telephone number is (703) 308-3819. The examiner can normally be reached on Monday - Thursday and alternate Fridays from 6:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Bell, can be reached on (703) 308-3823. The fax phone numbers for the Group are as follows:

- (i) (703) 872-9310 for any non-final amendment or communication, and
- (ii) (703) 872-9311 for any after-final amendment or communication.

It is suggested that the examiner be notified that a fax has been sent to ensure prompt handling of the amendment or communication.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.


ANTHONY GREEN
PRIMARY EXAMINER
ART UNIT 1755

ajg
April 21, 2003